



WEST VIRGINIA STATE POLICE
FORENSIC LABORATORY
THE LAB REPORT
VOLUME 6 NO. 1 — SPRING 2020



**SPECIAL POINTS
OF INTEREST:**

- Our How to Edition (1 of 2)
- A New Logo!
- Preparing for Trial
- A Prosecutor’s Viewpoint
- New Blood Collection Kits

INSIDE:

Quick Hits / New Logo	2
Pre-Trial Preparation	3
Pre-Trial Prosecutor’s	6
New Blood Collection Kits	8
PDC In-service Courses	10
Lab Road Show	11
Laboratory Staff	13

A MESSAGE FROM THE DIRECTOR

The general focus at the WVSPFL has always been to decrease the backlog and that has been happening slowly and steadily over the past 3 years. We are now expanding focus to improve turnaround time (TAT). We define TAT as the time between when a case is accepted at the laboratory to the time it is completed and ready for return to the officer. We have a TAT goal of 60-90 days lab-wide but many variables affect that goal and some are out of our control. We need help from you, our customers, to ensure we provide a quality service in a timely manner. Some areas where we could use your assistance:

- Ensure you have a completed Case Submission Form 53 (and 53A for DNA cases) attached to the outside of your properly sealed and/or wrapped evidence container
- Ensure the forms are filled out in their entirety. Every piece of information requested on the submission forms is requested for a reason, so thoroughness of those forms will expedite the laboratory testing process and incomplete forms will impede the process.

As always, we take pride in providing forensic testing services in an efficient and effective manner and appreciate your support in our continuous improvement process. Please don’t hesitate to reach out should you need assistance with any of our laboratory services.



Sincerely,
Sheri Lemons
Laboratory Director

Links:

- [WEST VIRGINIA STATE POLICE FORENSIC LABORATORY FIELD MANUAL](#)
- [FORENSIC LABORATORY EVIDENCE SUBMISSION FORM](#)
- [CURRENT JOB POSTINGS](#)
- [FEEDBACK SURVEY](#)

HOW TO: QUICK HITS

Meredith Chambers
Quality Assurance Manager

Request case file (includes chain of custody)

Requires a written request on the prosecutor's letterhead.

Two CDs will be sent to the PA, one for PA and one for defense. This can be sent by email, fax, or mail.

Request case file and other documentation (including manuals, maintenance, CVs, etc)

A court order with signatures from all parties involved. This can be sent by email, fax, mail.

Request copy of laboratory report (ex: investigating officer, prosecuting attorney)

Email or call the specific section.

Provide feedback for improvement for laboratory activities

<https://www.wvsp.gov/about/Documents/CrimeLab/LabSurvey.pdf>

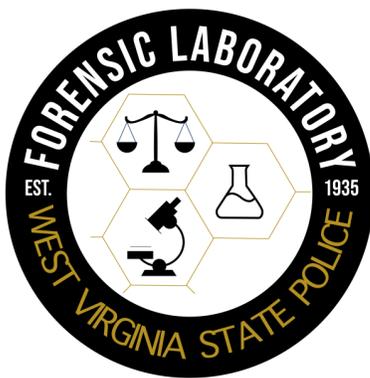
Submit evidence to sections with case acceptance policies

Consult the website for any case acceptance policy notifications.

Call the section supervisor of the section you are submitting to and ask. All laboratory staff contact information can be found at the end of this newsletter.

New Laboratory Seal and Logo

A new seal and logo has been designed for the WVSP Forensic Laboratory. This new seal (left) and logo (right) will begin to appear on documents generated by the WVSP Forensic Laboratory.



The Pre-Trial Conference: How to Prepare for Trial with a Forensic Scientist

**Blake Reta and Stephen King
Forensic Scientists**

Ask a forensic scientist in this laboratory what the most stressful aspect of his or her job is and the answer you are most likely to get is testifying. Since testifying is a form of public speaking, and since public speaking usually ranks only behind death as a human fear, that answer is not surprising. What also is not surprising is how much training a new forensic scientist receives in court preparation and testimony. Every aspect of court preparation is covered and tested with the culmination of the training being a mock trial. While education will not alleviate all of the forensic scientist's nervousness, it does provide a strong foundation for building confidence in the courtroom. What will be surprising to the questioner – because it is always surprising to the forensic scientist – is just how little contact the scientist may actually have with the attorney who issued the subpoena prior to trial. One would think a pre-trial conference would be a routine matter for attorneys prior to going to court; however, the truth can still make an experienced forensic scientist shake his or her head in amazement. The truth is a pre-trial conference is not only not routine, it is routinely scarce. What we wish to do in this article is to discuss the importance of a pre-trial conference by focusing on the interaction between the forensic scientist being subpoenaed to testify as an expert and the

attorney issuing the subpoena, either for the prosecution or the defense.

It is understood by the forensic scientists in our laboratory that many attorneys may not be familiar with the specifics of the forensic disciplines that are practiced by the staff. It is with this understanding that we strive to educate attorneys prior to trial so that a coherent and accurate testimony can be provided to the court. To successfully achieve this, an effort must be made by the subpoenaed forensic scientist or the attorney who issued the subpoena to make contact. This should be done well in advance of trial, if at all possible; however, even a brief conversation – as little as thirty minutes – a day or two before the trial will have an impact. The meeting can take place over the telephone or in person. During a telephone conference or face-to-face meeting, the following topics should, at a minimum, be discussed;

- **Reported results and opinions of the case:** A discussion of this topic should include what examinations were performed and the basis for reaching the results and opinions. An attorney may think that a forensic scientist's reported results and opinions can be interpreted in a specific manner. The attorney should verify that his or her interpretation and understanding of the results is in line with the forensic scientist's intended meaning.

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THE LAB REPORT – SPRING 2020**

CONT: The Pre-Trial Conference: Preparing for Trial with a Forensic Scientist

Being clear on this issue should prevent the attorney from being surprised by the forensic scientist during testimony with a response of “No, it does not mean that, it means this.”

- **Proper terminology:** A jury can become easily confused or unsure of the testimony if the forensic scientist and the attorney are not using the same terminology to discuss the evidence that was tested and the results of that testing. Use of improper terminology can also lead to a forensic scientist not understanding the question or having to correct the attorney on multiple occasions in order to make sure the proper terminology is used. During a pre-trial discussion, the attorney should clarify any terminology used by the forensic scientist that will need to be explained further to the jury so they understand the meaning of the term. This is especially important when using unfamiliar, technical terms.

- **Limitations of the expert witness testimony:** Often an attorney may think that the forensic scientist can testify to theoretical situations or assumptions based on some experience of the scientist. If there are specific questions that are of interest to the attorney, it is best to ask during the pre-trial meeting whether it is a question that can be answered by the forensic scientist. It is important to remem-

ber that many times a forensic scientist may only be able to testify to the testing performed and general knowledge topics related to the forensic discipline.

Additionally, an attorney should know that forensic scientists, even those working in the same discipline, will present testimony differently. Some forensic scientists are comfortable on the witness stand and can provide answers of varying length and depth to the questions that are asked. Other forensic scientists are far less comfortable and may provide shorter answers when lengthier and more in-depth answers were more appropriate. A pre-trial conference will introduce the attorney to his or her witness. Strengths and weaknesses can be assessed and discussed, and strategies can be built. Perhaps of equal importance, a conversation can put both parties at ease and establish a certain level of comfort and familiarity. This can lead to more effective testimony.

ARTICLE CONTINUED ON PAGE 5

CONT: The Pre-Trial Conference: Preparing for Trial with a Forensic Scientist

And though the premise of the article was a pre-trial conference between the forensic scientist and the attorney who issued the subpoena, a pre-trial conference with the opposing attorney is also welcomed. The reality is that the majority of subpoenas issued to forensic scientists at this laboratory come from the prosecuting attorney. Rarely does the forensic scientist even know the name of the defense attorney and rarely does the defense reach out to the forensic scientist. It should be otherwise. This laboratory encourages contact with the defense just as enthusiastic-

ly as we do with the prosecution. The times that this has occurred have almost always been fruitful for each party.

The importance of a pre-trial conference cannot be understated for all of the reasons stated above. Attorneys must reach out more than is currently practiced. The testimony provided by a forensic scientist when called to court can have an impact on a jury in how they interpret the information with which they are presented. This we all hope will lead to a well-considered verdict.

MORE COMING!

Keep an eye out for a quick turnaround on the newsletter this year. Typically there is a spring version and a fall version of the newsletter published by the laboratory. We had many great articles for this 'How to' version and in an effort to keep the publications at a shorter length, we had to cut many of those great articles from this version.

In the SUMMER version coming to you soon we will cover:

- How to properly fill out a Case Submission Form (the WVSP Form 53)
- How to properly fill out a WVSP Form 53A for DNA requests
- How to resubmit evidence for DNA analysis

Thank you to everyone who continues to read our newsletter, if you have any specific topics you would like to see in the upcoming publication please contact me. blake.n.reta@wvsp.gov

EDITOR'S NOTE: The below written article was graciously provided for publication in this edition of the newsletter by Katie Franklin, Prosecuting Attorney of Jackson County. The viewpoint offered is meant to be a companion to the article published on pages 3 through 5 detailing the viewpoint of me and Stephen King, scientists employed at the WVSP Forensic Laboratory. We would welcome any viewpoints from additional attorneys, especially those in the defense role. If there is interest please contact me for future publication: blake.n.reta@wvsp.gov

The Pre-Trial, a Prosecutor's View

Katie Franklin
Prosecuting Attorney—Jackson County WV

Three-and-a-half years ago – and about a month before I was elected prosecutor – I got an early morning call notifying me of a “situation” which soon became my very first murder case. While I was not, by any means, inexperienced in court, I was a hopeless neophyte when it came to forensic science, and all the implications thereof.

This reality was made painfully apparent a few months later when I and our lead investigators crowded into our sheriff's department's conference room with the members of the Kanawha County Crime Scene Unit, who had processed the scene, and David Miller, of the Central Evidence Processing Section of the West Virginia State Police Forensic Laboratory. As we contemplated the 60-plus items submitted to the lab and discussed the methodology of using wet/dry swabs for sampling, it dawned on me that not taking a science course since high school was probably not the smartest move on my part.

Luckily, my liberal arts mind was not left to fumble through complicated reports on its own, and that initial meeting was only the first of many. In fact, throughout the length of the case, I ended up having multiple in person, often hours-long meetings with David Miller and Angela Gill of the Biochemistry Section, both at my county courthouse and at the lab, and between meetings there were countless calls and e-mails. Frankly, they were so responsive to my e-mails that I could get a thorough answer from them quicker than I could Google it myself.

Perhaps the most surprising aspect was that our conversations extended beyond educating me on terminology – although they did so with a seemingly never-ending patience – and went on to include a truly meaningful collaboration. You see, David and Angela aren't just “experts” – they're also “expert witnesses.” They had experience testifying at trial, and they knew what was effective and what wasn't.

ARTICLE CONTINUED ON PAGE 7

CONT: The Pre-Trial, a Prosecutor's View

They were able to give me examples of direct examinations that other prosecutors had done in similar cases, which were impactful for the jury. They also gave me examples of questions prosecutors had asked them, which were, well, um, less beneficial. We were able to talk about the admission of exhibits, and the sequence of publication. They not only helped me understand what a “stochastic threshold” for DNA was; but they also put me in a position to help them best explain the evidence to the jury.

Whereas I had been bogged down in the technical aspects of trying a case, they guided me to a more organic flow of evidence, allowing the exhibits and the findings to tell a story. After our last meeting, I took the long-winded outlines I'd developed – the kind of outlines that textbooks and prosecutor webpages would deem “best standards” for questioning experts – and I threw them out the window. Needless to say, their expertise and advice were outright indispensable.

Now, being the cynical person that I am, I initially assumed that getting to work with David and Angela was just good luck, and this couldn't possibly be the normal experience. I had had a few drug identification cases in the past, and everybody had always been very nice and very professional, but to show the kind of dedication that David and Angela gave, well, that had to be absolutely above and beyond... right?

Yet not long after my sleepy little county had another murder, and what do you know?, when it came time to prepare for trial, not only did Blake Reta with Firearms and Koren Powers with Trace Evidence field my every question, but they also readily agreed to meet with me to discuss their findings in-depth. And once again, it wasn't just a matter of, “Here's our findings from the report – let me read them to you”; it was, “Here are some questions that the defense is going to ask, and here's what you should do on re-direct.” Even on the parts of it I thought I understood, they added another layer.

Truth-be-told, I used to have a very simple philosophy when it came to forensic analysts, which went something to the affect that they were professionals, and I was a professional, and I could just call them to the stand, and they knew what to do, and I knew what to do, and everything would work out, no problem. Nowadays, when I call up one of our scientists in advance of trial, it feels less like a routine act of touching base with a witness, and more like I'm consulting a crystal ball – a crystal ball which politely and eagerly shows me every possible twist and turn that their testimony can take, and how to respond to the same.

You see, in my experience, the remarkable thing about the scientists of the West Virginia State Police Lab is that I don't prep them for trial; they prep me. And I couldn't possibly be more grateful.

HOW TO: Use New Blood Collection Kits

Erin Fezell
Toxicology Section Supervisor

Blood Collection Kits have been redesigned and are entering into circulation when distribution of kits is made by the Commission on Drunk Driving Prevention to hospitals. The kits have been streamlined to eliminate some of the paperwork. The kit still contains all necessary supplies for drawing the blood specimen. The contents of the kit include: two 10ml gray top blood collection tubes, a combined consent form/blood collection report, blood tube tray, tube and needle holder, needle, Povidone-Iodine Prep Pad, specimen security seals, Ziplock bag with absorbing sheet and a kit shipping seal. The kit has also been designed with an envelope pre-attached to the bottom of the box for the case submission form.

Once the blood specimen has been collected, the tubes should be sealed and placed back into the plastic blood tube tray holder. The plastic blood tube tray should then be placed into the Ziplock bag and the Ziplock should be closed. The plastic bag and the consent form/blood collection report should then be placed back inside the kit box and the box should be sealed. Seals should consist of handwritten initials which cross both the tape and the box. The Case Submission Form should be filled out and placed into the pre-attached envelope. Postage needs added to the kit box and it can be mailed to the laboratory. The kits have been designed so the contents will be protected without any additional packaging needed.

Please DO NOT place blood kits into larger containers for shipment to the laboratory. This makes storage extremely difficult.

CONSENT FORM	
Date: _____	Time: _____ am/pm
Name of subject (print): _____	
I HAVE GRANTED PERMISSION FOR BLOOD SAMPLES TO BE TAKEN.	
Signature of subject: _____	
BLOOD COLLECTION REPORT	
Subject's name: _____	
Subject's address: _____	

Date and time of arrest: _____	
Place of blood collection: _____	
Date: _____	Time: _____ am/pm
I HEREBY CERTIFY THAT I DREW BLOOD SAMPLES FROM THE ABOVE-NAMED PERSON.	
Print: _____	
Sign: _____	
Date: _____	

BA0WSP/CONBCR 1 4/19

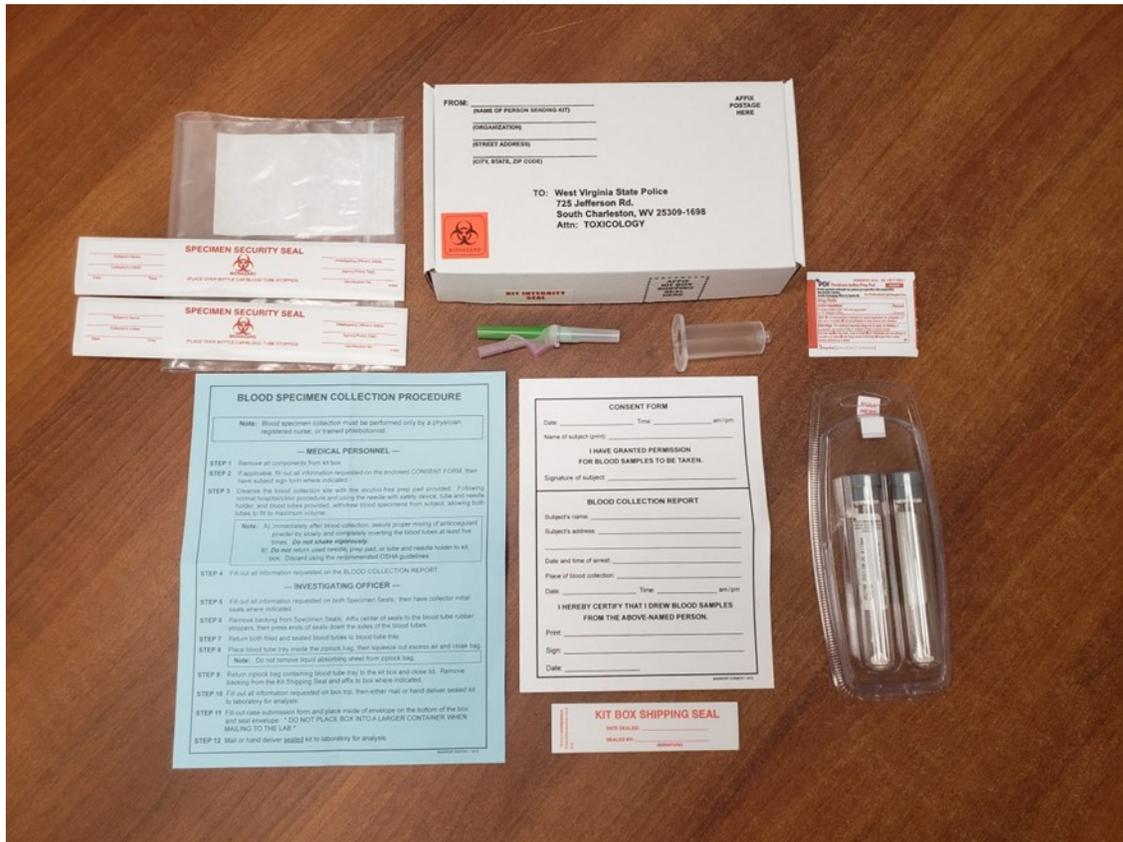
**Combined Form—this has the consent form
and blood collection report.**

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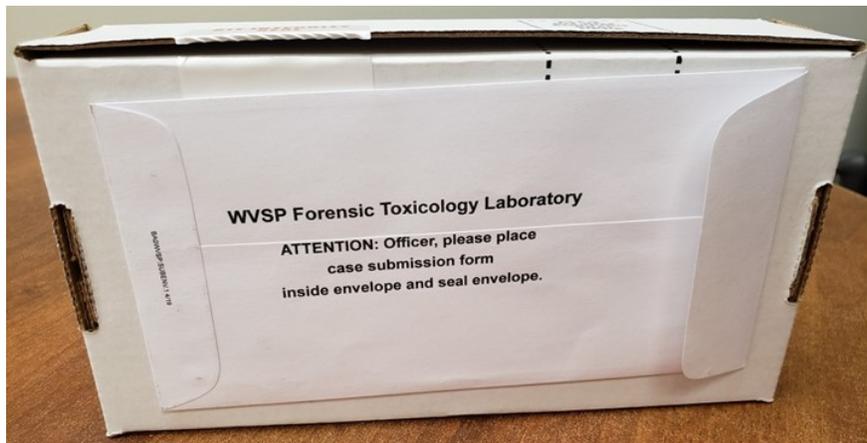
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THE LAB REPORT—SPRING 2020

CONT: New Blood Collection Kits



A New Blood Kit



A pre-attached envelope for the Case Submission Form (WVSP Form 53) is on the new blood collection kits.

WVSP PDC Specialty In-Service Courses 2020



Crime Scene Processing - April 20 - 24

A course focusing on crime scene processing, evidence collection, and documentation for submitting to the WVSP Forensic Laboratory and individual sections.

- * Maximum class size - 12 participants

Basic Fire Scene Evidence - May 5-6

Training on practical evidence collection for arson and fire scene cases.

- * No maximum class size

Intro. Forensic Photography - May 18 - 19

An introduction to practical field photography using issued digital cameras and DSLR cameras.

- * Maximum class size - 10 participants
- * Bring all camera equipment issued
- * Cameras provided for training, if necessary

Crime Scene Reconstruction - Aug. 10 - 11

Practical hands-on training for documenting and reconstructing indoor/outdoor crime scenes.

- * Maximum class size - 10 participants
- * Bring all camera equipment issued
- * Cameras provided for training, if necessary

Crime Scene Processing - Oct. 5 - 6

A course focusing on crime scene processing, evidence collection, and documentation for submitting to the WVSP Forensic Laboratory and individual sections.

- * Maximum class size - 12 participants

Intro. Forensic Photography - Nov. 16 - 17

An introduction to practical field photography using issued digital cameras and DSLR cameras.

- * Maximum class size - 10 participants
- * Bring all camera equipment issued
- * Cameras provided for training, if necessary

For more information and for scheduling please contact:

LaDonna Escue
 ladonna.r.escue@wvsp.gov
 1-304-766-5857

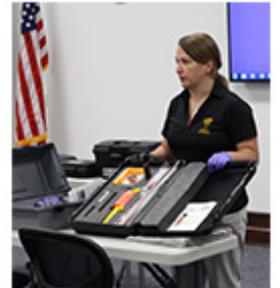


Lab Road Show

The West Virginia State Police Forensic Laboratory is providing training opportunities for law enforcement, attorneys, and judges! One day hands-on 8 hour in-service training!

Sections of the WVSP Forensic Laboratory that can provide lecture / training include:

Biochemistry Drug Identification Evidence Processing Toxicology
Firearms/Toolmarks Footwear/Tire Tracks Trace Evidence
Photography Arson Evidence Latent Prints



We ask that the host agency provide a space for a maximum of 30 participants (a local school, department complex, etc.) with PowerPoint capabilities for lecture and space for hands-on training to occur.



For more information contact Lara D'agostin at lara.k.dagostin@wvsp.gov or 304-746-2487

LABORATORY INFO:

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Biology Processing: biology@wvsp.gov

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Firearms/Toolmarks: firearms@wvsp.gov

Latent Prints: latent.prints@wvsp.gov

Toxicology: toxicology@wvsp.gov

Trace Evidence: trace@wvsp.gov

Request for sex crime kits and CODIS kits: (below)
laboratory.kits@wvsp.gov

FEEDBACK

We always welcome feedback for the upcoming newsletter!

Have comments or suggestion?

Want to know how we do something?

Need to know how we recommend to collect a specific type of evidence?

Feel free to contact the editors and suggest topics and provide us with any comments or feedback.

Your Editors,

Blake N. Reta — blake.n.reta@wvsp.gov

Stephen C. King — stephen.c.king@wvsp.gov



Laboratory Mission and Goal

Mission:

It is the mission of the West Virginia State Police Forensic Laboratory to provide accurate and impartial scientific support services to all criminal justice agencies operating in the State of West Virginia.

Goal:

The goal of the West Virginia State Police Forensic Laboratory is to generate accurate, impartial, and timely scientific examinations and opinions for the criminal justice system of the State in the interest of public safety. Establish and maintain a database of convicted felons, sex offenders, case work profiles, and missing persons.

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